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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FEDERAL TRADE COMMISSION,
Plaintiff,
v.
MICROSOFT CORP., et al.,
Defendants

Case No. 3:23-cv-02880-JSC

**NON-PARTY SONY
INTERACTIVE
ENTERTAINMENT LLC'S
CONSENTED MOTION FOR AN
EXTENSION OF TIME**

The Honorable Jacqueline Scott
Corley

I. INTRODUCTION

Pursuant to Civil Local Rule 6-3, Non-Party Sony Interactive Entertainment LLC (“SIE”) requests that this Court grant an extension of time for SIE to file certain statements in support of sealing under Civil Local Rule 79-5(f). The Parties have consented to this request. The Court recently granted a similar motion for another Non-Party. *See* ECF 190.

II. BACKGROUND

As detailed in previous SIE filings, SIE produced confidential business material in response to a civil investigative demand and subpoenas in the underlying FTC administrative proceeding, *In re Microsoft/Activision Blizzard*, No. 9412 (F.T.C.), which material has been used by the Parties in numerous filings and hearing exhibits in the present action. SIE has already filed motions and statements in support of sealing with respect to all exhibits and deposition designations, as well as certain filings that contain SIE confidential information. See ECF Nos. 134, 172, 195. As relevant to the present motion, SIE confidential business material is also included in three additional Party filings for which SIE has not yet filed statements:

- On June 16, 2023, Defendants filed their Memorandum of Law in Opposition to Motion for Preliminary Injunction (ECF No. 106-3) and corresponding Administrative Motion to Consider Whether Another Party’s Material Should Be Sealed (“Administrative Motion”) (ECF No. 107, subsequently corrected at ECF No. 110). Defendants did not identify the SIE-related redactions in this brief until June 22. Decl. of L. Malm ¶ 5.
- On June 20, 2023, the FTC filed its Reply to Defendant’s Opposition to Preliminary Injunction Motion (ECF No. 131) and corresponding Administrative Motion (ECF No. 132). The FTC has not identified the SIE-

1 related redactions in this brief as of the filing of the present motion. Decl. of
 2 L. Malm ¶ 8.

3 • On June 22, 2023, Defendants filed their Proposed Pretrial Findings of Fact
 4 and Conclusions of Law (ECF No. 177) and corresponding Administrative
 5 Motions (ECF No. 179).

6 **III. ARGUMENT**

7 Civil Local Rule 79-5(f)(3) requires a non-party whose confidential material
 8 has been filed under seal (the “Designating Party”) to file a statement regarding the
 9 filing party’s Administrative Motion to Consider Whether Another Party’s Material
 10 Should be Sealed. Ordinarily, the Designating Party has seven days to file such a
 11 statement. In order to do so, however, the Designating Party must know which of
 12 its material has been used, which will not be apparent from the redacted filing
 13 available on the public docket.

14 Here, likely due to the press of the expedited proceedings, the Parties have
 15 not been able to provide Non-Party SIE with the necessary materials with perfect
 16 timeliness. (Defendants did not provide SIE with the SIE-related redactions in their
 17 Opposition brief until June 22, six days after the filing was docketed, and the FTC
 18 has still not provided SIE with the SIE-related redactions in its Reply brief). *See*
 19 Malm Decl. Ex. 1; *see also* ECF 188-1. To allow SIE time to review these
 20 materials and prepare its filing, SIE requests the Court grant an extension to
 21 Thursday, June 29, 2023. This deadline will also align SIE’s deadlines to file
 22 statements with respect to Defendants’ Opposition and FTC’s Reply to the existing
 23 deadline to file its statement with respect to Defendants’ Proposed Findings of Fact,
 24 permitting SIE to make a consolidated filing with respect to all three statements
 25 thus conserving SIE and Court resources.

1 SIE also believes it will be more efficient for the Court to consider a
2 consolidated filing, rather than iterative filings on similar subject matter. Granting
3 the motion will not impact the progress of the hearing as SIE has already made
4 filings related to the exhibits and deposition designations that relate to the goings
5 on in the courtroom. *See* ECF 172, 195.

6 **IV. CONCLUSION**

7 For the foregoing reasons, SIE respectfully requests that the Court grant
8 SIE's motion and extend its time to file statements regarding ECF Nos. 110 and
9 132 to Thursday, June 29, 2023.

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Dated: June 23, 2023

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Respectfully submitted,

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CLEARY GOTTLIEB STEEN &
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